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Preparatory Committee on the Establishment of an International Criminal Court
16 March-3 April 1998

Draft report of the Preparatory Committee

1. The General Assembly, in its resolution 50/46 of 11 December 1995, decided to establish a preparatory committee for the establishment of an international criminal court to discuss the major substantive and administrative issues arising out of the draft statute prepared by the International Law Commission in 1994 and to draft texts with a view to preparing a widely acceptable consolidated text of a convention for an international criminal court as a next step towards consideration by a conference of plenipotentiaries.

2. The Preparatory Committee on the Establishment of an International Criminal Court met from 25 March to 12 April and from 12 to 30 August 1996, during which time it discussed further the issues arising out of the draft statute and began preparing a widely acceptable consolidated text of a convention for an international criminal court.[1]

3. In its resolution 51/207 of 17 December 1996, the General Assembly decided that the Preparatory Committee would meet in 1997 and 1998 in order to complete the drafting of a text for submission to the diplomatic conference of plenipotentiaries.

4. The Preparatory Committee met from 11 to 21 February, from 4 to 15 August and from 1 to 12 December 1997, during which time it continued to prepare a widely acceptable consolidated text of a convention for an international criminal court.[2]

5. The General Assembly, in its resolution 52/160 of 15 December 1997, accepted with deep appreciation the generous offer of the Government of Italy to act as host to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court and decided to hold the Conference in Rome from 15 June to 17 July 1998.

6. In the same resolution, the General Assembly requested the Preparatory Committee to continue its work in accordance with Assembly resolution 51/207 and, at the end of its sessions, to transmit to the Conference the text of a draft convention on the establishment of an international criminal court prepared in accordance with its mandate.

7. The Preparatory Committee met from 16 March to 3 April 1998 and had before it a consolidated text compiled by the Bureau and coordinators on the basis of all the texts that it had worked out or that had been submitted to it (A/AC.249/1998/L.13). The compilation

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was the product of an informal meeting held in Zutphen, the Netherlands, from 19 to 30 January 1998 and was used as a basis for the work of the Committee at that session.

8. At its 56th meeting, on 16 March, the Preparatory Committee decided to conduct its work through working groups on the following subjects: procedural matters (chaired by Ms. Silvia Fernández de Gurmendi); composition and administration of the court (chaired by Mr. Lionel Yee); establishment of the court and relationship with the United Nations (chaired by Mr. Rama Rao); applicable law (chaired by Mr. Per Saland); on *ne bis in idem* (chaired by Mr. John Holmes); jurisdictional issues (chaired by Mr. Erkki Kourula); and enforcement (chaired by Mrs. Molly Warlow). The final clauses were considered at the informal meetings under the chairmanship of Mr. Adriaan Bos.

9. At its 57th meeting, on 1 April, the Preparatory Committee adopted the reports of the working groups mentioned above.

10. At its --- meeting, on 3 April, the Preparatory Committee adopted the text of a draft statute on the establishment of an international criminal court (A/AC.249/CRP.6-18) and the draft final act (A/AC.249/1998/CRP.19).

11. In its resolution 52/160, the General Assembly requested the Secretary-General to prepare the text of the draft rules of procedure of the Conference, to be submitted to the Preparatory Committee for its consideration and recommendations to the Conference, with a view to the adoption of such rules by the Conference in accordance with the rules of procedure of the General Assembly, and to provide for consultations on the organization and methods of work of the Conference, including rules of procedure, prior to the convening of the last session of the Committee. At its --- th meeting, on 3 April, the Preparatory Committee adopted the draft provisional rules of procedure of the Conference prepared by the Secretary-General (A/AC.249/1998/CRP.3) pursuant to resolution 52/160.

12. At its --- th meeting, on --- April, the Preparatory Committee took note of the draft organization of work prepared by the Secretariat and decided to transmit it to the Conference.

13. At its --- th meeting, on --- April, the Preparatory Committee agreed to transmit to the Conference the following documents:

(a) Draft statute for the establishment of an international criminal court;

(b) Draft final act;

(c) Draft provisional rules of procedure of the Conference;

(d) Draft organization of work.

14. In its resolution 52/160, the General Assembly requested the Secretary-General to invite non-governmental organizations, accredited by the Preparatory Committee with due regard to the provisions of section VII of Economic and Social Council resolution 1996/31 of 25 July 1996, and in particular to the relevance of their activities to the work of the Conference, to participate in the Conference, along the lines followed in the Committee, on the understanding that participation meant attending meetings of its plenary and, unless otherwise decided by the Conference in specific situations, formal meetings of its subsidiary bodies except the drafting group, receiving copies of the official documents, making available their materials to delegates and addressing, through a limited number of their representatives, its opening and/or closing sessions, as appropriate, in accordance with the rules of procedure to be adopted by the Conference. On the basis of the list of non-governmental organizations compiled by the Secretariat with the assistance of the NGO Coalition for the Establishment of an International Criminal Court

(A/AC.249/1998/CRP.22), the Preparatory Committee decided that the non-governmental organizations listed therein should be invited to participate in the Conference in the manner set out in resolution 52/160.

15. At the 57th meeting, on 1 April, the representative of the Netherlands announced his country's candidacy of The Hague for the seat of the international criminal court.

16. Pursuant to paragraph 7 of resolution 51/207, the Secretary-General established a trust fund for the participation of the least developed countries in the work of the Preparatory Committee and the Conference. Guidelines were established for the administration of the fund. The Committee noted that the following Governments had made contributions to the fund: Belgium, Canada, Denmark, Finland, Netherlands, Norway, Sweden and United Kingdom of Great Britain and Northern Ireland. Thirty-three representatives from 18 States had thus far utilized the trust fund to facilitate their participation in the meetings of the Preparatory Committee during 1997 and 1998. The European Commission had awarded a grant to the trust fund, but owing to procedural difficulties, the transfer of the contribution had been delayed.

17. Pursuant to paragraph 7 of resolution 52/160, the Secretary-General also established a trust fund for the participation of other developing countries in the work of the Preparatory Committee and in the Conference. The Government of the Netherlands had made a contribution, which would be available to those developing countries requesting assistance to facilitate their participation in the Conference.

18. The Preparatory Committee expressed its deep appreciation to the Governments that had made contributions and to the European Commission for its award to the above-mentioned trust funds. The Committee noted that the General Assembly, in its resolution 52/160, called upon States to contribute voluntarily to the trust funds.

Notes

[1] See *Official Records of the General Assembly, Fifty-first Session, Supplement No. 22* (A/51/22).

[2] See the decisions taken by the Preparatory Committee at its session held from 11 to 21 July 1997 (A/AC.249/1997/L.5); decisions taken by the Preparatory Committee at its session held from 4 to 15 August 1997 (A/AC.249/1997/L.8/Rev.1); and decisions taken by the Preparatory Committee at its session held from 1 to 12 December 1997 (A/AC.249/1997/L.9/Rev.1).